

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 4/15/2020

JAMES E. JOHNSON  
*Corporation Counsel*

THE CITY OF NEW YORK  
**LAW DEPARTMENT**  
100 CHURCH STREET  
NEW YORK, NY 10007

Andrew J. Rauchberg  
Phone: (212) 356-0891  
arauchbe@law.nyc.gov

April 13, 2020

**BY ECF**

Honorable Mary Kay Vyskocil  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: *Winters v. N.Y. City Dep't of Corr., et al.*  
19 cv 7271 (MKV) (KNF)

Dear Judge Vyskocil:

I am an Assistant Corporation Counsel in the Office of the Corporation Counsel assigned to represent the Defendants in the case referenced above. I write regarding Plaintiff's most recent filings in this action.

Plaintiff initiated this case by Complaint dated June 14, 2019. Plaintiff alleges that he was denied access to the courts while he was in the custody of the New York City Department of Correction due to issues with the mail. By Notice dated November 12, 2019, Defendants moved to dismiss the Complaint. The parties appeared before the Hon. Ronnie Abrams on November 21, 2019, at which time Judge Abrams granted Plaintiff leave to file an Amended Complaint. Defendants did not object. Judge Abrams extended the deadline to file the Amended Complaint once. The case was reassigned to Your Honor on or about February 6, 2020, and by Order dated February 20, 2020, the Court extended the deadline again, to March 20, 2020.

Plaintiff recently filed documents which posted to the case docket on March 30, 2020, but none appear to be amended pleadings. Instead, Plaintiff filed a letter with exhibits attached and a memorandum of law "in support of Plaintiff's motion to amend the Complaint." Docket entries 23 and 24. The memorandum does not, however, appear to support a motion to amend (and indeed, Plaintiff has already been given leave to amend). It appears to be an opposition to Defendants' motion to dismiss.

If Plaintiff has determined to forego his opportunity to amend, and wishes to proceed based on the initial Complaint, Defendants respectfully request additional time to serve

and file reply papers. Specifically, Defendants respectfully request an additional three weeks, or until May 4, 2020, to serve and file their reply. Additional time is sought because my colleagues and I have recently dedicated much of our time and resources to matters connected to the Covid-19 pandemic, including responding to numerous emergency writs. An extension is needed to prepare an appropriate response to Plaintiff's arguments, if they are intended as opposition to Defendants' motion. Alternatively, Defendants respectfully request that the Court grant Plaintiff additional time to serve and file his Amended Complaint. Plaintiff has written the Court twice to ask for additional time to amend, and it may still be his intention to do so. If Plaintiff still does not serve and file an Amended Complaint, Defendants respectfully three weeks from the new deadline set by the Court to serve and file their reply.

This is the first such request Defendants have made. Because Plaintiff is incarcerated, and is proceeding *pro se*, I have not been able to speak with him to obtain his consent to this request.

Thank you for your consideration of this matter. I hope that Your Honor, your colleagues at the Court, and all of your families are doing well and staying safe.

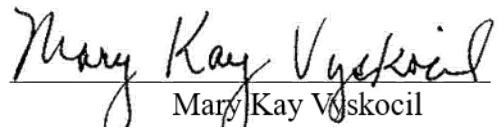
Respectfully submitted,

s/  
Andrew J. Rauchberg  
Assistant Corporation Counsel

cc: Jason Winters  
Plaintiff *pro se*  
Manhattan Detention Complex  
125 White Street  
New York, New York 10013  
(by regular mail)

GRANTED. Defendants may file their reply on or before May 4, 2020. Plaintiff is also informed that if he intends to file an Amended Complaint, he should do so quickly. Otherwise, the Court will consider the brief filed as an opposition to the Defendant's motion to dismiss. The Court will mail a copy of this order to the Plaintiff.

Date: 4/15/2020  
New York, New York

  
Mary Kay Vyskocil  
United States District Judge